



March 20, 2015

ENGROSSED HOUSE BILL No. 1192

DIGEST OF HB 1192 (Updated March 19, 2015 11:12 am - DI 97)

Citations Affected: IC 27-7; IC 34-6; IC 34-30.

Synopsis: Uninsured motorist damages. Specifies that an insurer may not pay noneconomic damages on a motor vehicle insurance claim for a loss incurred by an uninsured motorist who, during the immediately preceding five years, has been required to provide proof of future financial responsibility. Provides that an uninsured motorist who sustained bodily injury or property damage as the result of a motor vehicle accident and who, during the immediately preceding five years, has been required to provide proof of future financial responsibility may not recover noneconomic damages. Makes certain exceptions.

Effective: July 1, 2015.

Mahan, Lehman, Judy, Austin

(SENATE SPONSORS — HOLDMAN, STEELE)

January 12, 2015, read first time and referred to Committee on Insurance.
February 12, 2015, amended, reported — Do Pass.
February 16, 2015, read second time, ordered engrossed. Engrossed.
February 17, 2015, read third time, passed. Yeas 93, nays 1.

SENATE ACTION

February 24, 2015, read first time and referred to Committee on Insurance & Financial Institutions.
March 19, 2015, amended, reported favorably — Do Pass.

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March 20, 2015

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1192

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 27-7-5.1 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2015]:
- 4 **Chapter 5.1. Miscellaneous Motor Vehicle Insurance Provisions**
- 5 **Sec. 1. As used in this chapter, "financial responsibility" means**
- 6 **the ability to respond in damages as described in IC 9-25-2-3.**
- 7 **Sec. 2. As used in this chapter, "motor vehicle insurance policy"**
- 8 **means a policy that provides the kind of coverage described in**
- 9 **Class 2(f) of IC 27-1-5-1.**
- 10 **Sec. 3. (a) As used in this chapter, "noneconomic damages"**
- 11 **means costs for the following:**
- 12 **(1) Physical and emotional pain and suffering.**
- 13 **(2) Physical impairment.**
- 14 **(3) Emotional distress.**
- 15 **(4) Mental anguish.**

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(5) Loss of enjoyment.

(6) Loss of companionship, services, and consortium.

(7) Any other nonpecuniary loss proximately caused by a motor vehicle accident.

(b) The term does not include costs for the following:

(1) Treatment and rehabilitation.

(2) Medical expenses.

(3) Loss of economic or educational potential.

(4) Loss of productivity.

(5) Absenteeism.

(6) Support expenses.

(7) Accidents or injury.

(8) Any other pecuniary loss proximately caused by a motor vehicle accident.

Sec. 4. As used in this chapter, "uninsured motorist with a previous violation" means an individual who:

(1) owns a motor vehicle:

(A) that is involved in an accident; and

(B) for which financial responsibility is not in effect as required by IC 9-25-4; and

(2) during the immediately preceding five (5) years, has been required to provide proof of future financial responsibility for any period under IC 9-25-8-6(b);

regardless of whether the individual is operating the motor vehicle at the time of the accident.

Sec. 5. An insurer may not pay noneconomic damages on a claim for coverage under a motor vehicle insurance policy issued by the insurer if the claim is for coverage for a loss incurred by an uninsured motorist with a previous violation.

Sec. 6. (a) Section 5 of this chapter does not apply to a claim for coverage for a loss incurred by an uninsured motorist with a previous violation who is less than eighteen (18) years of age.

(b) Section 5 of this chapter does not apply to a claim for coverage for a loss incurred by any person other than an uninsured motorist with a previous violation.

(c) Section 5 of this chapter does not apply if a person other than the uninsured motorist with a previous violation:

(1) operates a motor vehicle involved in the accident; and

(2) is convicted of a crime in connection with the accident.

SECTION 2. IC 34-6-2-84 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 84. "Motor vehicle", for purposes of IC 34-30-29.2 and IC 34-40-4, has the meaning set forth



1 in IC 9-13-2-105(a).

2 SECTION 3. IC 34-6-2-87.7 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2015]: **Sec. 87.7. "Noneconomic damages", for purposes of**
5 **IC 34-30-29.2, has the meaning set forth in IC 34-30-29.2-2.**

6 SECTION 4. IC 34-6-2-144.8 IS ADDED TO THE INDIANA
7 CODE AS A NEW SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2015]: **Sec. 144.8. "Uninsured motorist with**
9 **a previous violation", for purposes of IC 34-30-29.2, has the**
10 **meaning set forth in IC 27-7-5.1-4.**

11 SECTION 5. IC 34-30-29.2 IS ADDED TO THE INDIANA CODE
12 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2015]:

14 **Chapter 29.2. Immunity From Liability to Uninsured Motorist**
15 **With a Previous Violation**

16 **Sec. 1. (a) This chapter applies to a civil action brought to**
17 **recover damages for:**

- 18 (1) injury to or the death of a person; or
19 (2) damage to property;
20 **resulting from a motor vehicle accident.**

21 (b) This chapter does not apply to a civil action brought to
22 recover damages for injury, death, or property damage that is
23 caused intentionally.

24 **Sec. 2. (a) As used in this chapter, "noneconomic damages"**
25 **means costs for the following:**

- 26 (1) Physical and emotional pain and suffering.
27 (2) Physical impairment.
28 (3) Emotional distress.
29 (4) Mental anguish.
30 (5) Loss of enjoyment.
31 (6) Loss of companionship, services, and consortium.
32 (7) Any other nonpecuniary loss proximately caused by a
33 motor vehicle accident.

34 (b) The term does not include costs for the following:

- 35 (1) Treatment and rehabilitation.
36 (2) Medical expenses.
37 (3) Loss of economic or educational potential.
38 (4) Loss of productivity.
39 (5) Absenteeism.
40 (6) Support expenses.
41 (7) Accidents or injury.
42 (8) Any other pecuniary loss proximately caused by a motor



vehicle accident.

Sec. 3. (a) A person who:

(1) sustained bodily injury or property damage as the result of a motor vehicle accident; and

(2) was an uninsured motorist with a previous violation at the time of the motor vehicle accident;

may not recover noneconomic damages for the person's bodily injury or property damage from the owner or operator of another motor vehicle involved in the motor vehicle accident.

(b) The personal representative of a person who:

(1) died as the result of a motor vehicle accident; and

(2) was an uninsured motorist with a previous violation at the time of the motor vehicle accident;

may not recover noneconomic damages under IC 34-23-1 for the person's death from another motor vehicle involved in the motor vehicle accident.

Sec. 4. (a) Section 3(a) of this chapter does not apply to a person who was less than eighteen (18) years of age at the time of the motor vehicle accident.

(b) Section 3(b) of this chapter does not apply to the personal representative of a person who was less than eighteen (18) years of age at the time of the motor vehicle accident.

(c) This chapter does not apply if a person other than the uninsured motorist with a previous violation:

(1) operates a motor vehicle involved in the accident; and

(2) is convicted of a crime in connection with the accident.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1192, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete line 1.

Page 2, line 2, delete "(6)" and insert **"(5)"**.

Page 2, line 3, delete "(7)" and insert **"(6)"**.

Page 2, line 4, delete "(8)" and insert **"(7)"**.

Page 2, delete lines 16 through 19, begin a new paragraph and insert:

"Sec. 4. As used in this chapter, "uninsured motorist with a previous violation" means an individual who:

(1) owns a motor vehicle:

(A) that is involved in an accident; and

(B) for which financial responsibility is not in effect as required by IC 9-25-4; and

(2) during the immediately preceding five (5) years, has been required to provide proof of future financial responsibility for any period under IC 9-25-8-6(b);

regardless of whether the individual is operating the motor vehicle at the time of the accident."

Page 2, line 23, delete "." and insert **"with a previous violation."**

Page 2, line 25, after "motorist" insert **"with a previous violation"**.

Page 2, line 28, delete "motorist:" and insert **"motorist with a previous violation:"**.

Page 2, line 41, delete "motorist," and insert **"motorist with a previous violation",**.

Page 3, line 4, after "Motorist" insert **"With a Previous Violation"**.

Page 3, delete line 19.

Page 3, line 20, delete "(6)" and insert **"(5)"**.

Page 3, line 21, delete "(7)" and insert **"(6)"**.

Page 3, line 22, delete "(8)" and insert **"(7)"**.

Page 3, line 37, after "motorist" insert **"with a previous violation"**.

Page 4, line 3, after "motorist" insert **"with a previous violation"**.



Page 4, line 16, delete "motorist:" and insert "**motorist with a previous violation:**".

and when so amended that said bill do pass.

(Reference is to HB 1192 as introduced.)

CARBAUGH

Committee Vote: yeas 11, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1192, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 33, after "(b)" insert "**Section 5 of this chapter does not apply to a claim for coverage for a loss incurred by any person other than an uninsured motorist with a previous violation.**

(c)".

Page 2, line 39, delete "IC 34-30-29" and insert "**IC 34-30-29.2**".

Page 3, line 2, delete "IC 34-30-29," and insert "**IC 34-30-29.2**".

Page 3, line 2, delete "IC 34-30-29-2." and insert "**IC 34-30-29.2-2**".

Page 3, line 6, delete "IC 34-30-29," and insert "**IC 34-30-29.2**".

Page 3, line 8, delete "IC 34-30-29" and insert "IC 34-30-29.2".

Page 3, line 11, delete "29." and insert "**29.2**".

Page 4, line 5, delete "another person who was" and insert "**the owner or operator of**".

Page 4, line 6, delete "operating".

Page 4, line 6, delete "when that other motor vehicle was".

Page 4, line 13, delete "another person who was operating" and insert "**the owner or operator of**".

Page 4, line 14, delete "when that other motor vehicle was".

and when so amended that said bill do pass.

(Reference is to HB 1192 as printed February 13, 2015.)

HOLDMAN, Chairperson

Committee Vote: Yeas 9, Nays 0.

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